

The opinion in support of the decision being  
entered today is not binding precedent of the Board.

Paper 33

Filed by: Trial Section Merits Panel

Mail Stop Interference  
P.O. Box 1450  
Alexandria, VA 22313-1450  
Tel: 571-272-9797  
Fax: 571-273-0042

Filed  
15 February 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

---

MATTHEW JOSEPH CAREY, ERIC EDWARD FULLERTON,  
BRICE ALVIN GURNEY, HAL JERVIS ROSEN  
and MANFRED ERNST SCHABES

Junior Party,  
(Patent 6,280,813),

v.

E. NOEL ABARRA, IWAO OKAMOTO,  
and YOSHIFUMI MIZOSHITA

Senior Party,  
(Application 09/425,788).

---

Patent Interference No. 105,156

---

Before: SCHAFER, TORCZON, and MEDLEY, Administrative Patent Judges.

MEDLEY, Administrative Patent Judge.

**Judgment - Bd.R. 127(b)(1)**

On 10 February 2005, the board received from Abarra "ABARRA MOTION FOR ENTRY OF ADVERSE JUDGMENT" (Paper 31). Abarra requests abandonment of its involved

application. Abandonment of an involved application is construed as a request for adverse judgment. Bd.R. 127(b)(1).

Accordingly, it is

**ORDERED** that judgment as to the subject matter of the count is herein entered against the senior party ABARRA;

**FURTHER ORDERED** that senior party ABARRA is not entitled to claims 1-12 and 19-25 which correspond to the count;

**FURTHER ORDERED** that if there is a settlement agreement, the parties should note the requirements of 35 U.S.C. 135(c) and Bd.R. 205;

**FURTHER ORDERED** that a copy of this judgment be filed in the respective involved applications of the parties; and

**FURTHER ORDERED** that the clerk of the Board have entered into the ABARRA application file 09/425,788 the ABARRA notice for express abandonment.

cc (via e-mail):

Attorney for CAREY:

Mr. Steven Parmelee (lead counsel)  
Mr. Mark Barrish (backup counsel)  
swparmelee@townsend.com  
mdbarrish@townsend.com

Attorney for ABARRA:

Mr. Patrick G. Burns (lead counsel)  
Mr. James Folker (backup counsel)  
pburns@gbclaw.net  
jfolker@gbclaw.net

**Despertt, Sonja**

---

**From:** Despertt, Sonja on behalf of Interference Trial Section  
**Sent:** Tuesday, February 15, 2005 3:43 PM  
**To:** 'swparmelee@townsend.com'; 'mdbarrish@townsend.com'; 'pburns@gbclaw.net';  
**Subject:** 'jfolker@gbclaw.net'  
Interference No. 105,156 (SCM) Paper No. 33 - Judgment-Bd.R. 127(b)(1)



105156.033.pdf